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Ser. No. 10/675,444
Atty. Docket No. 103-001PUS
Applicants' Summary of Telephonic Interview Dated January 8, 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

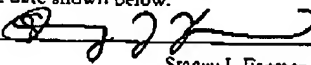
Applicants:	Matthias Giese, <i>et al.</i>	Art Unit:	1648
Serial No.:	10/675,444	Examiner:	Louise Wang Zhiying Humphrey
Filing Date:	September 30, 2003	Atty. Docket No.	103-001PUS
Title:	Equine Arteritis Virus Vaccine	Confirmation No.	7837

CERTIFICATION UNDER 37 C.F.R. § 1.8(a)

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February 2, 2009

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Stacey J. Farmer

APPLICANTS' SUMMARY OF THE SUBSTANCE OF THE INTERVIEW

Upon Applicant's request, the courtesy of a telephonic interview was granted on January 8, 2009 with Examiner Dr. Louise Humphrey and the Supervisory Patent Examiner, Dr. Bruce Campell. Applicant sincerely thanks both Dr. Humphrey and Dr. Campell for taking the time to participate in a discussion pertaining to the above-captioned application.

Applicant received a "Summary of Record" regarding the "Substance of the Interview" with a mailing date of January 14, 2009. Hence, in accordance with §§ 37 C.F.R. 1.2, 1.133 and MPEP 713.04, Applicant's authorized representative hereby submits an official statement concerning the subject-matter discussed during the above-mentioned interview.

All parties agreed that independent claims 1, 15 and 24 encompass a vaccine compositions (claim 1, 24), nucleic acid vector (claim 15) reciting "a nucleic acid encoding an EAV sequence consisting of open reading frame (ORF) 2, ORF 5, and ORF 7". Examiner Humphrey cited Snijder as disclosing both ORF 2 and that "ORF 2a" (a portion of the ORF 2 sequence) is conserved in all Arteriviruses. Tobiasch is on record as disclosing a vaccine composition that was used to vaccinate mice that contained EAV ORF 5 + 7; however, Tobiasch is admitted not to teach EAV ORF 2 in these compositions. Collectively, these observations

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prompted the Examiner's conclusion that the skilled person would modify the Tobiasch composition to include the conserved ORF 2, to thereby achieve a composition of the claimed invention. However, Applicant's representative responded by pointing out that Snijder's experiments fail to demonstrate any sort of cytotoxic effect with the expressed ORF 2; that Snijder acknowledges known problems with post-translational modifications of ORF 2a which could dramatically alter its function; and significantly, and that a combination of ORF 2a + 5 + 6 was shown by Snijder to be incapable of virus production. Therefore, considering Snijder's teaching as a whole, it appears doubtful to Applicant that the skilled person could arrive at the claimed invention without exercising any inventive skill when consulting the combination of the Tobiasch and Snijder disclosures.

Another aspect of our discussion focused on the invention's findings that the combination of EAV-derived ORF 2 + 5 + 7 generated a ("particularly effective", specification at [0053]) substantial and sustainable humoral (antibody-based) response (see, e.g. Example 1, Tables 16 and 17) and a cellular immune response (see, e.g. Examples 2 to 4 and Tables 18-20) following administration in horses, that was unexpected and had not been characterized before the priority date of the application. Both Examiners suggested that Applicant provide evidence showing an enhanced effect of EAV ORF 2 + 5 + 7 compared to EAV ORF 5 + 7 (Tobiasch), would be helpful should the argumentation regarding "unexpected results" be pursued further.


Finally, the Examiners provided kind reassurances that all of Applicants arguments to be included in future submissions would be reviewed by an Examiner having expertise in the field of immunology.

Respectfully submitted,

Dated: February 2, 2009

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